

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DONALD C. HUTCHINS)
)
 Plaintiff)
)
 v.) **AFFIDAVIT OF**
) **DONALD C. HUTCHINS**
)
 CARDIAC SCIENCE, INC.)
 and)
 COMPLIENT CORPORATION)
)
 Defendants)

NOW COMES DONALD C. HUTCHINS and upon being duly sworn,
states that:

1. I am over 18 years of age and have personal knowledge of the matters attested to herein.
2. Because the Court has expressed confusion in the past in differentiating my testimony as the Plaintiff and as the *pro se* representative, I offer this affidavit as clarification.
3. Ohio Case No. CV04540066 is currently on appeal as Ohio Court of Appeals CA06088877. As such it is restricted for use in terms of *res judicata* in this action. Consequently the basis for Compliant's Summary Judgment is removed.
4. The Summary Judgment awarded to Cardiac Science is reversed opening the path to a jury trial to resolve the many disputed genuine issues of fact that are not resolvable as matters of law.

5. I believe this is the optimum time for settlement for all the parties involved. A settlement would also be the most economic course for all the parties and relieve the resources of the court system. Lack of a settlement at this time could lead to a jury trial, appeal and the continuation of other patent infringement cases in Michigan, Ohio and Massachusetts that look to this case for resolution.
6. I have proposed a Settlement to Attorney Skaar who represents Cardiac Science attached as Exhibit A. Attorney Skaar has been in regular communication with Compliant and the Aristotle Corporation and is in the best position to achieve this settlement.
7. Months ago I was in the court and listened to a civil case in which one party was represented by Attorney James Martin of Robinson Donovan P.C. At this hearing the Court pressed both attorneys to work a little harder because they were close to settlement. Sometime later Attorney Martin told me that because of your intervention the parties arrived at a settlement shortly after the hearing.
8. I would ask the Court to encourage a settlement among all the parties to this action at this the most opportune time.

FURTHER AFFIANT SAYETH NAUGHT



DONALD C. HUTCHINS

Sworn to before me and subscribed in my presence the 23rd day of October, 2006



Karen M. Bruslilio
NOTARY PUBLIC